

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-
LEVEL PAP, AND MECHANICAL
VENTILATOR PRODUCTS
LITIGATION

This Document Relates to:
All Actions Asserting Claims for Medical
Monitoring

Master Docket: Misc. No. 21-mc-1230-JFC

MDL No. 3014

**UNOPPOSED MOTION OF SETTLEMENT CLASS REPRESENTATIVES
FOR FINAL APPROVAL OF CLASS SETTLEMENT AGREEMENT
AND RELEASE OF MEDICAL MONITORING CLAIMS,
FINAL JUDGMENT, INJUNCTION AND ORDER OF DISMISSAL**

Settlement Class Representatives hereby respectfully move the Court for an Order to, among other things: (1) find that the Settlement (set forth in ECF 2862-1 and pp. 34-67 of ECF 2858-1) is in full compliance with all requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clause), and any other applicable law; (2) find that the Settlement was negotiated at arm's-length before the Court-appointed Settlement Mediator, Hon. Diane M. Welsh (Ret.); there was sufficient formal and informal discovery; the Parties and counsel were knowledgeable about the facts relevant to the Medical Monitoring Claims and the substantial risks, burdens, expense and delay of continued litigation of the Medical Monitoring Claims; and the Parties were represented by highly capable counsel with substantial experience in class action and products liability litigation; (3) find that the *Girsh* factors weigh in favor of approving the Settlement; (4) find that none of the objections to the Settlement is meritorious; (5) find that dissemination of Notice as set forth in the Declaration of Orran L. Brown, Sr. of BrownGreer (ECF 3003-1) was in compliance with the Court's June 27, 2024 Preliminary Approval Order, and that notice satisfies Federal Rules of Civil Procedure 23(c)

and 23(e) and due process; (6) find that a full opportunity has been offered to Settlement Class Members to object to the Settlement and to participate in the Final Fairness Hearing; (7) grant final class certification, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), for settlement purposes only, of the Settlement Class that the Court conditionally certified in its June 27, 2024 Preliminary Approval Order; (8) confirm the appointment of Elizabeth Lemus and Marilyn Sweeney as Settlement Class Representatives and the procedure for replacing a Settlement Class Representative; (9) confirm the appointment of Settlement Class Counsel listed in paragraph 18 of the Court's June 27, 2024 Preliminary Approval Order and the procedure that may be used to replace Settlement Class Counsel; (10) grant final approval of the Plan for Provision of Medical Advancement Program ("MAP") Benefits set forth in Exhibit 3 of the Settlement Agreement (ECF 2858-1) as being fair, reasonable, adequate, and in the best interest of the Settlement Class; (11) grant the Settlement Class Representatives' Motion for Final Approval of Class Settlement Agreement and Release of Medical Monitoring Claims; (12) dismiss the Medical Monitoring Complaint (ECF 815) and any other Medical Monitoring Claims as to all Released Parties, on the merits, with prejudice and, except as explicitly provided for in the Settlement Agreement, without costs; (13) enjoin Settlement Class Members and the other Releasing Parties from filing, commencing, maintaining, continuing, pursuing and/or prosecuting the Released Claims in any action, arbitration or other proceeding, whether pending or filed in the future, against Defendants and the other Released Parties; (14) pursuant to the Settlement Agreement, enjoin the Philips Defendants and any successors to the Philips Defendants' rights or interests under the Settlement Agreement from challenging or opposing, on the basis of this Settlement and the Releases provided therein, a Settlement Class Member's Personal Injury Claims or ability to recover for those claims, or individual claims for payment of that individual's medical monitoring expenses related to the

individual's use of a Recalled Device, whether incurred in the past or the future, and regardless of how those claims may be characterized (*e.g.*, equitable, legal, etc.), or their ability to recover for those individual claims; and (15) retain continuing and exclusive jurisdiction over the Settlement Fund and the MAP set forth in the Settlement Agreement.

The Philips Defendants do not oppose this motion.

In further support of this Motion, Settlement Class Representatives are filing herewith their Brief in Support of Settlement Class Representatives' Motion for Final Approval of Class Settlement Agreement and Release of Medical Monitoring Claims, which includes their response to objections to the Class Settlement Agreement and Release of Medical Monitoring Claims.

Settlement Class representatives attach a proposed Final Approval Order as Exhibit "A" hereto.

Dated: October 9, 2024

Respectfully submitted,

/s/ Sandra L. Duggan
Sandra L. Duggan
Levin Sedran & Berman LLP
PA Bar ID 56420
510 Walnut Street
Ste 500
Philadelphia, PA 19106
215-592-1500
sduggan@lfsblaw.com

/s/ Christopher A. Seeger
Christopher A. Seeger
Seeger Weiss LLP
NJ Bar ID 042631990
55 Challenger Road 6th Floor
Ridgefield Park, NJ 07660
212-584-070
cseeger@seegerweiss.com

/s/ Steven A. Schwartz
Steven A. Schwartz
Chimicles Schwartz Kriner & Donaldson-Smith LLP
PA Bar ID 50579
361 West Lancaster Avenue One Haverford
Centre Haverford, PA 1904
610-642-8500
steveschwartz@chimicles.com

/s/ Kelly K. Iverson
Kelly K. Iverson
Lynch Carpenter, LLP
PA Bar ID 307175
1133 Penn Avenue, 5th Floor
Pittsburgh, PA 15222
412-322-9243
kelly@lcllp.com

/s/Roberta D. Liebenberg

Roberta D. Liebenberg, Esquire

Fine, Kaplan and Black, R.P.C.

PA Bar ID 31738

One South Broad Street, 23rd Floor

Philadelphia, PA 19107

(215) 567-6565 (phone)

rliebenberg@finekaplan.com

Settlement Class Counsel

/s/ D. Aaron Rihn

D. Aaron Rihn, Esquire

Robert Peirce & Associates, P.C.

PA Bar ID: 85752

707 Grant Street, Suite 125

Pittsburgh, PA 15219

(412) 281-7229 (phone)

(412) 281-4229 (fax)

arihn@peircelaw.com

Peter St. Tienne Wolff, Esquire

**PietraGallo Gordon Alfano Bosick &
Raspanti, LLP**

PA Bar ID: 208433

One Oxford Centre - 38th Floor

Pittsburgh, PA 15219

(412) 263-2000 (phone)

(412) 263-2001 (fax)

psw@pietragallo.com

Plaintiffs' Co-Liaison Counsel